

House Bill 301 (AS PASSED HOUSE AND SENATE)

By: Representatives Reese of the 98<sup>th</sup>, Knight of the 126<sup>th</sup>, Roberts of the 154<sup>th</sup>, Williams of the 165<sup>th</sup>, Jacobs of the 80<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling offenses, so as to change certain provisions relating to dogfighting; to prohibit dogfighting and related conduct; to provide for punishments; to define a term; to provide for applicability; to amend Title 4 of the Official Code of Georgia Annotated, relating to animals, so as to change certain provisions relating to definitions relative to Chapter 8 of said title; to change certain provisions relating to caring for an impounded animal; to change certain provisions relating to failure to respond, right to hearing, care, and crime exception; to change certain provisions relating to filing a report regarding animal cruelty and immunity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1-1.**

Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling offenses, is amended by revising Code Section 16-12-37, relating to dogfighting, as follows:

"16-12-37.

~~(a) A person commits the offense of dogfighting when he causes or allows a dog to fight another dog for sport or gaming purposes or maintains or operates any event at which dogs are allowed or encouraged to fight one another.~~

~~(b) A person convicted of the offense of dogfighting shall be punished by a mandatory fine of \$5,000.00 or by a mandatory fine of \$5,000.00 and imprisonment for not less than one year nor more than five years.~~

(a) As used in this Code section, the term 'dog' means any domestic canine.

(b) Any person who:

(1) Owns, possesses, trains, transports, or sells any dog with the intent that such dog shall be engaged in fighting with another dog;

1 (2) For amusement or gain, causes any dog to fight with another dog or for amusement  
2 or gain, causes any dogs to injure each other;

3 (3) Wagers money or anything of value on the result of such dogfighting;

4 (4) Knowingly permits any act in violation of paragraph (1) or (2) of this subsection on  
5 any premises under the ownership or control of such person or knowingly aids or abets  
6 any such act; or

7 (5) Knowingly promotes or advertises an exhibition of fighting with another dog  
8 shall be guilty of a felony and, upon the first conviction thereof, shall be punished by  
9 imprisonment of not less than one nor more than five years, a fine of not less than  
10 \$5,000.00, or both such fine and imprisonment. On a second or subsequent conviction,  
11 such person shall be punished by imprisonment of not less than one nor more than ten  
12 years, a fine of not less than \$15,000.00, or both such fine and imprisonment. Each act or  
13 omission in violation of this subsection shall constitute a separate offense.

14 (c) Any person who is knowingly present only as a spectator at any place for the fighting  
15 of dogs shall, upon a first conviction thereof, be guilty of a misdemeanor of a high and  
16 aggravated nature. On a second conviction, such person shall be guilty of a felony and  
17 shall be punished by imprisonment of not less than one nor more than five years, a fine of  
18 not less than \$5,000.00, or both such fine and imprisonment. On a third or subsequent  
19 conviction, such person shall be punished by imprisonment of not less than one nor more  
20 than ten years, a fine of not less than \$15,000.00, or both such fine and imprisonment.  
21 Each act in violation of this subsection shall constitute a separate offense.

22 (d) Any dog subject to fighting may be impounded pursuant to the provisions of Code  
23 Sections 4-11-9.2 through 4-11-9.6.

24 (e) This Code section shall not prohibit, impede, or otherwise interfere with animal  
25 husbandry, training techniques, competition, events, shows, or practices not otherwise  
26 specifically prohibited by law and shall not apply to the following activities:

27 (1) Owning, using, breeding, training, or equipping any animal to pursue, take, hunt, or  
28 recover wildlife or any animal lawfully hunted under Title 27 or participating in hunting  
29 or fishing in accordance with the provisions of Title 27 and rules and regulations  
30 promulgated pursuant thereto as such rules and regulations existed on the date specified  
31 in Code Section 27-1-39;

32 (2) Owning, using, breeding, training, or equipping dogs to work livestock for  
33 agricultural purposes in accordance with the rules and regulations of the Commissioner  
34 of Agriculture as such rules and regulations existed on January 1, 2008;

35 (3) Owning, using, breeding, training, or equipping dogs for law enforcement  
36 purposes; or

1 (4) Owning, using, breeding, training, or equipping any animal to control damage from  
2 nuisance or pest species in and around structures or agricultural operations."

3 **PART II**

4 **SECTION 2-1.**

5 Title 4 of the Official Code of Georgia Annotated, relating to animals, is amended by  
6 revising paragraph (6) of Code Section 4-8-41, relating to definitions relative to Chapter 8  
7 of said title, as follows:

8 "(6) 'Vicious dog' means any dog that:

9 ~~(A) Inflicts~~ inflicts a severe injury on a human being without provocation after the  
10 owner has notice that the dog has previously bitten or attacked or endangered the safety  
11 of a human being; or

12 ~~(B) Is owned, possessed, kept, harbored, trained, or maintained for the purpose of~~  
13 ~~fighting.~~

14 Such term shall not include a dog that inflicts an injury upon a person when the dog is  
15 being used by a law enforcement officer to carry out the law enforcement officer's  
16 official duties. A dog shall not be a vicious dog if the injury inflicted by the dog was  
17 sustained by a person who, at the time, was committing a willful trespass or other tort or  
18 was tormenting, abusing, or assaulting the dog or had in the past been observed or  
19 reported to have tormented, abused, or assaulted the dog or was committing or attempting  
20 to commit a crime."

21 **SECTION 2-2.**

22 Said title is further amended by revising subsection (c) of Code Section 4-11-9.3, relating to  
23 caring for an impounded animal, as follows:

24 "(c) Any person impounding an animal under this article is shall be authorized to return  
25 the such animal to its owner, upon payment by the owner of all costs of impoundment and  
26 care and upon the entry of a consent order, unless such owner ~~was~~, in a prior administrative  
27 or legal action in this state or any other state, was found to have failed to provide humane  
28 care to an animal, committed cruelty to animals, or ~~engaged in dog fighting~~ committed an  
29 act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the  
30 United States or any of the several states. Such consent order shall provide conditions  
31 relating to the care and treatment of such animal, including, but not limited to, the  
32 following, that:

33 (1) Such animal ~~will~~ shall be given humane care and adequate and necessary veterinary  
34 services;

35 (2) Such animal ~~will~~ shall not be subjected to cruelty; and

(3) The owner ~~will~~ shall comply with this article."

#### SECTION 2-3.

Said title is further amended by revising subparagraph (b)(6)(B) of Code Section 4-11-9.5, relating to failure to respond, right to hearing, care, and crime exception, as follows:

"(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or ~~engaged in dog fighting~~ committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

- (i) Such animal ~~will~~ shall be given humane care and adequate and necessary veterinary services;
- (ii) Such animal ~~will~~ shall not be subjected to mistreatment; and
- (iii) The owner ~~will~~ shall comply with this article."

#### SECTION 2-4.

Said title is further amended by revising subsection (a) of Code Section 4-11-17, relating to filing a report regarding animal cruelty and immunity, as follows:

"(a) Notwithstanding Code Section 24-9-29 or any other provision of law to the contrary, any licensed ~~accredited~~ veterinarian or veterinary technician having reasonable cause to believe that an animal has been subjected to animal cruelty in violation of Code Section 16-12-4 or ~~dog fighting in violation of~~ an act prohibited under Code Section 16-12-37 may make or cause to be made a report of such violation to the Commissioner, his or her designee, an animal control officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in any judicial or administrative proceeding concerning the care of an animal."

### PART III

#### SECTION 3-1.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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- SECTION 3-2.
- All laws and parts of laws in conflict with this Act are repealed.